

Additionally, M.P.E.P. § 803 states in part: “If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” (emphasis added). Given the circumstances of this case, it would not be a serious burden for the Examiner to examine the claims reading upon Species I and Species II (claims 1-22) at this time. All claims of the application are related to similar subject matter. Therefore, search for subject matter of the generic claims and all claims of Species 1 will, of necessity, require searching areas pertinent to Species 2 and 3. Accordingly, no undue burden would be involved in examining these claims together.

Applicant’s election is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.146.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Dated: September 22, 2004

Respectfully submitted,


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